IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 23310 of 2004

Between:

Mypati Naga Raju S/o.Subrahmanyam
Ramalilngapuram, Nellore Dist.

..... PETITIONER

AND

1 The Muncipal Corporation of Nellore rep by Special Officer
2 Municipal Corporation of Nellore,
The Director of Town& Country Planning

3 The Director of Town and Country Planning

Government of Andhra Pradesh
Saifabad, Hyderabad.

4 Gundala Chandra Sekhar Reddy S/o.Venkata Subba Reddy
Chinna Bazar, Nellore Dist.
5 Degapudi Vamsi Krishna S/o.Venku Reddy
Kapu Street, Kovur,Nellore Dist.
6 Venati Leela Mohan Reddy S/o.Venati Bala Subramanyam Reddy
SBI Colony, Nellore (Purchase of plot 10)_
7 Degapudi Venku Reddy S/o.Ranga Reddy
Kapuvudi, Vovur,
Nellore Dist. (Purchaser of Plots 3&4).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of a writ of Mandamus or any other appropriate writ, direction, order or orders declaring the action of the respondents in granting building permissions in B.A.No.859/4/G3, dated 26-8-2004 and building permission in B.A.No.958/4/G2, dated 28-6-2004 in CA.Sno.445 of 2002 of Ramalingapalem (Mutyalapalem, Nellore-3) based on private unapproved layout, as arbitrary and

illegal and void and consequently direct the respondents 1 to 3 to cancel the above said building permissions.

Counsel for the Petitioner:MR.M.P.CHANDRAMOULI

Counsel for the Respondent No.1 and 2: Mr.D.Srinivas, Standing Counsel for Municipalities

Counsel for the Respondent No.3: GP for Town and Country Planning

Counsel for the Respondent No.4 to 7: Private Parties.

The Court made the following :

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

-

This writ petition has been filed by Mypati Naga Raju with a prayer to issue a writ in the nature of a writ of Mandamus or any other appropriate writ, direction, order or orders declaring the action of the respondents in granting building permission in B.A.No.859/4/G3, dated 26-8-2004 and building permission in B.A.No.958/4/G2, dated
28-6-2004 in CAS.No.445 of 2002 of Ramalingapalem (Mutyalapalem, Nellore-3), as arbitrary and illegal and void consequently direct the respondents 1 to 3 to cancel the above said building permissions.

The grievance of the writ petitioner is that the building permission has been sanctioned to the respondents 5 and 6 basing on the unapproved layout and thus

the building permission sanctioned to them is required to be cancelled. The grievance of the writ petitioner is that the 40 feet road is running in C.A.S.No.445/2, which is owned by 4th respondent and whereas in the private layout out of 40 feet width road, 20 feet width running in the land of the petitioner and 20 feet width is running in the land of the 4th respondent.

The 2nd respondent filed counter affidavit. It is stated in the counter affidavit that the building permissions sanctioned to the respondents 5 and 6 have been canceled.

I deem it appropriate to refer Para No.6 of the counter affidavit, which reads thus:-

> "It is submitted that the 5th respondent has performed Bhumipooja on 08-12-2004 for construction of building on that day, the petitioner has come to the Municipal Corporation Authorities and explained the situations in detail. After pursuing the facts the Municipal Corporation authorities have gone to the spot and instructed to stop construction work till the further instructions or orders issued and then survey has been done, and it is noticed that the 40 feet Master plan road falls in CAS.No.445/3 and 445/2."

Since the 2nd respondent-Municipal Commissioner, Municipal Corporation, Nellore, has already cancelled the building permissions granted in favour of the respondents 5 and 6, the cause of action in this writ petition does not survive.

Thus, the writ petition is dismissed as infructuous. No costs.

08th July, 2005.

mrb

To

1 The Special Officer, The Muncipal Corporation of Nellore.
2 The Commissioner, Municipal Corporation of Nellore
3. The Director of Town & Country Planning, Nellore.
The Government of Andhra Pradesh
Saifabad, Hyderabad.
4. Two CCs to G.P for Town & Country Planning, High Court Buildings,

Hyderbad(OUT)

5 Two CD copies

6 One CC to MR.CHANDRAMOULI